IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.
WRIT PETITION No.7638 OF 2006.

Smt.Lalita K. Shettiyar ..Petitioner.

Versus.

A.M. Yadav and Anr ..Respondents.

Mr.D.J. Lulia, Advocate for the Petitioner.
Mr.H.P. Pandey, Advocate for the Respondent.

CORAM:R.M.S.KHANDEPARKAR,J.
DATED:24TH NOVEMBER, 2006.

P.C.:-

. Not on board. On request taken on board.

2. Heard.

3. The learned counsel for the petitioner prays for deletion of respondent no.2. Prayer granted. Amendment to be carried out forthwith.

4. The learned counsel for Respondent no.1 states that whatever has been stated in the amendment application and the documents which are sought to be relied upon by the proposed amendment are already listed and the respondent (original Plaintiff) has no objection if all the facts stated in the Schedule by way of proposed amendment are

allowed to be recorded in the evidence as also all the documents which are referred in the proposed amendment are allowed to be produced in the evidence. He has also stated that he has no objection for the amendment for the prayer clause in the nature of para 2 (a) (2) in the Schedule appended to the application for amendment being allowed to be introduced.

The said prayer reads, thus:-

> (a)(2)"Alternatively this Hon'ble Court be pleased to declare that the consent decree dated 16.8.2005 passed in R.A.E. Suit No. 74/112 of 2001 in respect of the suit premises i.e. Room No. 7, Nagarwala Colony Residence Society (wrongly mentioned as Amerika Mahavir Yadav Chawl in the present Suit), Ambawadi, Poddar Road,Opp. Laxmi Narayan Shopping Centre, Malad,(E), Mumbai-400 097, more particularly, marked in red colour at Exh."A" hereto is without jurisdiction nullity, not binding upon the Applicant and can not be executed against the applicant."

5. Above statements on behalf of the Respondent no.1 (original Plaintiff) being recorded, nothing survives in the petition while accepting the said statements on behalf of the Respondent no 1.(original plaintiff),the impugned order stands modified accordingly and the petition is disposed of. Amendment as granted to be carried out within one week.

[R.M.S.KHANDEPARKAR,J]